

IC 7.1-3-16.5

Chapter 16.5. Supplemental Retailers' Permits

IC 7.1-3-16.5-1

Application

Sec. 1. Application. The commission may issue a supplemental retailer's permit to a person who desires to sell alcoholic beverages to customers for consumption only on his licensed premises on Sundays.

(Formerly: Acts 1973, P.L.60, SEC.1.)

IC 7.1-3-16.5-2

Persons eligible for permits

Sec. 2. (a) The commission may issue a supplemental retailer's permit only to a person:

(1) who is, and continues to be, the holder of a beer retailer's permit, a liquor retailer's permit, or a wine retailer's permit;

(2) whose business:

(A) has had annual gross sales of food and beverages of at least one hundred thousand dollars (\$100,000), of which at least fifty percent (50%) was in the retail sale of food; or

(B) has had annual gross retail sales of food of at least one hundred thousand dollars (\$100,000);

for the year immediately preceding the person's application for the permit; and

(3) whose business operates during seven (7) or more months of the year.

(b) Notwithstanding subsection (a), the commission may issue a supplemental retailer's permit to a person whose business operates during fewer than seven (7) months of the year if:

(1) the person is, and continues to be, the holder of a beer retailer's permit, a liquor retailer's permit, or a wine retailer's permit; and

(2) the person's business, for each month of business during the year immediately preceding the application for a permit has had:

(A) average monthly gross sales of food and beverages of at least eight thousand five hundred dollars (\$8,500), of which at least fifty percent (50%) was in the retail sale of food; or

(B) average monthly gross retail sales of food of at least eight thousand five hundred dollars (\$8,500).

(c) Notwithstanding subsection (a), the commission may issue a supplemental retailer's permit to a person who meets the following requirements:

(1) Is the proprietor of a recreational facility such as a golf course, bowling center, or similar facility.

(2) Has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.

(3) Is, and continues to be, the holder of a beer retailer's permit,

a liquor retailer's permit, or a wine retailer's permit.

(4) Has had at the person's business annual gross sales of food and beverages of at least twenty-five thousand dollars (\$25,000), of which at least twelve thousand five hundred dollars (\$12,500) was in the retail sale of food.

(d) The commission may issue a supplemental retailer's permit to a person who is, and continues to be, the holder of a farm winery permit under IC 7.1-3-12.

(Formerly: Acts 1973, P.L.60, SEC.1.) As amended by Acts 1982, P.L.70, SEC.1; P.L.99-1983, SEC.2; P.L.78-1986, SEC.4; P.L.89-1993, SEC.1; P.L.51-1994, SEC.5; P.L.201-1999, SEC.6.

IC 7.1-3-16.5-3

New establishments

Sec. 3. (a) The commission may issue a supplemental retailer's permit to the proprietor of a new establishment who plans to do business during seven (7) or more months of the year, if the applicant proves to the local board and the commission that a projection of his experience had for the first ninety (90) days of sales at the establishment shows that:

(1) the gross sales of food and beverages will exceed one hundred thousand dollars (\$100,000) in the proportions required by section 2 of this chapter; or

(2) the gross sales of food will exceed one hundred thousand dollars (\$100,000);

by the end of one (1) year from the date of his application.

(b) Notwithstanding subsection (a), the commission may issue a supplemental retailer's permit to the proprietor of a new establishment who plans to do business during fewer than seven (7) months of the year, if the applicant proves to the local board and the commission that a projection of the applicant's experience had for the first ninety (90) days of sales at the establishment shows, for each full month that the applicant plans to do business:

(1) that the average monthly gross sales of food and beverages will exceed eight thousand five hundred dollars (\$8,500), of which at least fifty percent (50%) will be in the retail sale of food; or

(2) that the average monthly gross sales of food will exceed eight thousand five hundred dollars (\$8,500);

by the end of one (1) year from the date of application.

(c) Notwithstanding the requirements of subsection (a), the commission may issue a supplemental retailer's permit to the proprietor of a new establishment that:

(1) meets the requirements of section 2(c)(1) through 2(c)(3) of this chapter; and

(2) proves to the local board and the commission that a projection of the experience of the first ninety (90) days of sales shows that by one (1) year from the date of the application, the annual gross sales of food and beverages will exceed twenty-five thousand dollars (\$25,000), with at least twelve

thousand five hundred dollars (\$12,500) in the retail sale of food.

(d) Notwithstanding subsections (a) through (c), the commission may issue a supplemental retailer's permit for a new establishment to sell alcoholic beverages at the time of its opening if the applicant for this permit first executes a verified certification to the commission stating that food and beverage sales are expected to comply with the standards set forth in this section. Not more than one hundred twenty (120) days after the opening of the new establishment, the applicant shall furnish to the commission a financial statement showing the dollar amount of food and beverage sales during the first ninety (90) days of operation. The commission may require this financial statement to be audited by a certified public accountant. If the food and beverage sales shown on the financial statement do not meet the standards set forth in this section the commission may revoke the permit.

(Formerly: Acts 1973, P.L.60, SEC.1.) As amended by P.L.99-1983, SEC.3; P.L.85-1985, SEC.9; P.L.78-1986, SEC.5; P.L.11-1987, SEC.13; P.L.89-1993, SEC.2; P.L.51-1994, SEC.6.

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Nonrenewals

Sec. 4. The commission shall not renew the permit of a permittee licensed under section 2(a) of this chapter upon the expiration of his permit in the calendar year next succeeding a calendar year in which:

(1) the permittee's gross sales of food and beverages were less than one hundred thousand dollars (\$100,000), or the gross sales of food and beverages were not in the required proportions; or

(2) the permittee's gross sales of food were less than one hundred thousand dollars (\$100,000);

unless the permittee can establish to the satisfaction of the local board and the commission that his projected gross sales of food and beverages for the ensuing calendar year will exceed one hundred thousand dollars (\$100,000) in the required proportions, or that his projected gross sales of food for the ensuing calendar year will exceed one hundred thousand dollars (\$100,000).

(Formerly: Acts 1973, P.L.60, SEC.1.) As amended by Acts 1982, P.L.70, SEC.2; P.L.99-1983, SEC.4.

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Scope of farm winery permit

Sec. 5. Scope of Permit. The holder of a supplemental retailer's permit shall be entitled to purchase alcoholic beverages only from a permittee entitled to sell to him under this title. A supplemental retailer shall be entitled to possess and sell only those types of alcoholic beverages which he may lawfully possess and sell under his beer retailer's, liquor retailer's, wine retailer's permit, or farm winery permit, that qualifies him to hold a supplemental retailer's permit. A supplemental retailer shall be entitled to sell the appropriate

alcoholic beverages at retail for on the licensed premises consumption only on Sunday as provided in IC 7.1-3-1-14. The holder of a supplemental retailer's permit shall not be entitled to sell alcoholic beverages at wholesale, nor for carryout or at-home delivery. However, the holder of both a farm winery permit and supplemental retailer's permit is entitled to sell wine as authorized under IC 7.1-3-12- 5 for carryout on Sunday.

(Formerly: Acts 1973, P.L.60, SEC.1.) As amended by Acts 1982, P.L.70, SEC.3; P.L.201-1999, SEC.7.

IC 7.1-3-16.5-6

Nature of permit

Sec. 6. Nature of Permit. A supplemental retailer's permit, for the purposes of this title, shall be considered a separate and distinct type of retailer's permit. It shall not affect the rights, privileges, and restrictions applicable to any other type of retailer's permit. The rights, privileges, and restrictions provided in this title for a supplemental retailer's permit shall apply only on Sundays.

(Formerly: Acts 1973, P.L. 60, SEC.1.)